

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG  
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01362

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CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG  
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01665

**ORDER DENYING PLAINTIFFS' MOTION TO COMPEL DEFENDANT MCKESSON  
TO PRODUCE WEST VIRGINIA INVESTIGATORY DOCUMENTS**

The undersigned has received and reviewed Plaintiffs' Motion to Compel Defendant McKesson to Produce West Virginia Investigatory Documents, Defendant McKesson Corporation's Opposition to Plaintiffs' Motion, and Plaintiffs' Reply, as well as related exhibits. Plaintiffs seek to compel the production of documents related to an investigation conducted by McKesson in 2015. McKesson objects that the documents are protected by both the attorney-client privilege and the work product doctrine.

The undersigned finds that Plaintiffs' motion was timely filed. Having reviewed *in camera* the main document at issue, the undersigned is satisfied that the document sought by the motion is protected by the attorney-client privilege and the work product doctrine. McKesson has submitted an affidavit establishing that the memorandum reflects legal advice provided by both company lawyers and outside counsel regarding the company's response to the State of West Virginia's subpoena and subsequent motion to compel. Because the attorney-client privilege protects documents that reflect the advice of counsel, the document was properly withheld from production. Further, the affidavit submitted by McKesson establishes that the document was prepared in anticipation of litigation, in response to an investigatory subpoena and after the State filed a motion to compel. McKesson is therefore entitled to withhold this document from production under the work product doctrine. The undersigned finds that the eight closely related documents included on McKesson's privilege log are similarly protected from disclosure.

The Clerk is directed to transmit copies of this Order to those counsel of record who have registered to receive an electronic NEF.

Enter: December 10, 2020

/s/ Christopher C. Wilkes  
Christopher C. Wilkes  
Special Master